IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

CHAMBER SUMMONS No.796 of 2005.

IN

SUMMARY SUIT No. 295 of 2000.

Jagtap P. Shah (HUF) .. ..Plaintiffs.

V/s.

Ashish Prasan Kapadia.. ..Defendant.

Mr. Rakesh Dave i/b. N.N. Vaishnava
& Co. for plaintiffs.

Mr. Milind More,A.G.P. for State.

CORAM:S.C.DHARMADHIKARI,J.

DATED: 31st July, 2006.

P.C.:-

1] In this Chamber Summons prayer clause (a) was already granted by this Court and the Judgment Debtor was directed to file an affidavit disclosing details of his assets and properties within a period of two weeks from the date of order passed by this Court.

2] Such an affidavit having not been filed, the Decree Holder/Plaintiff seeks appropriate

reliefs including arrest and imprisonment of the Judgment Debtor.

3] To enable this Court to consider the prayer in that behalf, firstly bailable warrant and then non-bailable warrant was issued against the Judgment Debtor/Defendant.

4] I have passed orders, from time to time, pursuant to which an affidavit has been filed on 27th July,2006 by the Senior Police Inspector,Malbar Hill Police Station and in para 3 of the affidavit it is stated thus:-

> (3) "I say that I myself along with my Officers conducted a detail search to nab the accused/defendant against whom this Hon'ble Court has issued a Warrant, but he is found tobe absconding and I assure to this Hon'ble Court that every effort will be made to nab this accused/defendant as early as possible as the search for the

said accused/defendant is already on in various places including Hospitals, Railway stations, Airports and all places of exit going from Mumbai."

5] In the light of this affidavit, in my view, appropriate course is to defer the request for arrest and imprisonment of the Judgment Debtor for a period of eight weeks from today.

6] I am informed that against the Judgment Debtor there are several criminal proceedings pending, so also arrest warrants have been issued, but the Judgment Debtor is evading arrest. However, the Police Officials have made some attempts pursuant to the directions of this Court and further assurance having been given which is recorded as above, it would be appropriate to await out-come of the efforts of the Investigating Agency/Police machinery.

7] Chamber Summons to appear after eight weeks.

[S.C. DHARMADHIKARI,J]